

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF DUKE ENERGY KENTUCKY,)	
INC. FOR APPROVAL TO TRANSFER)	
FUNCTIONAL CONTROL OF ITS)	
TRANSMISSION ASSETS FROM THE)	CASE NO.
MIDWEST INDEPENDENT TRANSMISSION)	2010-00203
SYSTEM OPERATOR TO THE PJM)	
INTERCONNECTION REGIONAL)	
TRANSMISSION ORGANIZATION AND)	
REQUEST FOR EXPEDITED TREATMENT)	

O R D E R

On December 22, 2010, the Commission issued an Order granting Duke Energy Kentucky, Inc. ("Duke Kentucky") conditional approval to transfer its transmission assets from the operational control of the Midwest Independent System Operator ("Midwest ISO") to the PJM Interconnection Regional Transmission Organization ("PJM"). That Order imposed six conditions precedent that needed to be agreed to by Duke Kentucky, and one condition precedent to be agreed to by PJM. The one condition imposed upon PJM was also one of the six conditions imposed on Duke Kentucky. That condition, set forth as finding paragraph 6 on page 18 of the December 22, 2010 Order, provided that:

No customer should be allowed to participate directly or through a third party in any PJM demand-response program until that customer has entered into a special contract with Duke Kentucky which has been filed with, and approved by, the Commission, or until Duke Kentucky has an approved tariff authorizing customer participation.

Duke Kentucky and PJM were required to indicate in writing within seven days of the date of the Order if they individually agreed to accept and be bound by the conditions imposed therein.

On December 29, 2010, Duke Kentucky filed a letter stating that it accepted and agreed to be bound by the six conditions imposed on it by the December 22, 2010 Order and noted that its move to PJM is contingent upon Duke Energy Ohio's successful move to PJM. On that same date, PJM filed a letter acknowledging that a requirement was imposed on Duke Kentucky which prohibited retail customers from participating in a PJM demand-response program without prior Commission approval. However, PJM's letter did not acknowledge that this same condition was imposed on PJM by finding paragraph 9 of the December 22, 2010 Order. Consequently, without PJM's agreement to honor this condition, a customer of Duke Kentucky could enroll in a PJM demand-response program if, at the time of enrollment, Duke Kentucky does not object to PJM, either intentionally or due to inadvertence. Such participation by a customer of Duke Kentucky would be in direct violation of Duke Kentucky's tariff, Ky. P.S.C. Electric No. 2, First Revised Sheet No. 21, Section 5, which prohibits the resale of electricity by customers.

The condition imposed on PJM by our December 22, 2010 Order mirrors the commitment made by PJM in 2004 in conjunction with Kentucky Power Company's application to transfer functional control of its transmission assets to PJM. In that case, the transfer to PJM was approved upon PJM's agreement that:

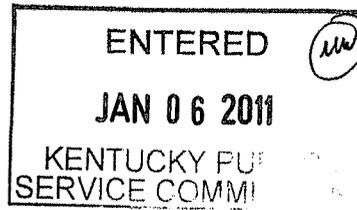
Any PJM-offered demand side response or load interruption programs will be made available to Kentucky Power for its retail customers at Kentucky Power's election. No such program will be made available by PJM directly to a retail customer of Kentucky Power Any such programs would be

subject to the applicable rules of the Commission and Kentucky law.¹

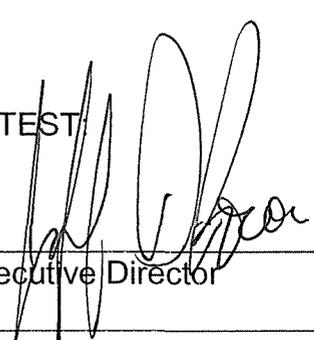
Based on a review of PJM's December 29, 2010 letter, the Commission finds that one of the conditions precedent to Duke Kentucky's transfer of transmission assets to PJM has not been satisfied.

IT IS THEREFORE ORDERED that the conditional approval granted in our December 22, 2010 Order has not become unconditional and will not become unconditional until either: (a) PJM clarifies its December 29, 2010 letter to acknowledge the requirement that no customer participate in a PJM demand-response program absent prior Commission approval; or (b) the December 22, 2010 Order is modified in response to a timely application for rehearing filed pursuant to KRS 278.400.

By the Commission



ATTEST



Executive Director

¹ Case No. 2002-00475, Application of Kentucky Power Company d/b/a American Electric Power, for Approval, to the Extent Necessary, to Transfer Functional Control of Transmission Facilities Located in Kentucky to PJM Interconnection, L.L.C. Pursuant to KRS 278.218 (Ky. PSC May 19, 2004) at 9 and Appendix A thereto at Paragraph No. 4.

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